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a Massachusetts consumer guide to

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home improvement



**Consumer Affairs &
Business Regulation**



about the program.

Every year, consumers spend millions of dollars on home improvements. Far too often, unsuspecting homeowners are cheated by home improvement contractors. In 1992, the Home Improvement Contractor Law (M.G.L. c. 142A) was created to protect consumers and regulate the practices of home improvement contractors.

The law establishes a contractor registration requirement, an arbitration program for resolving disputes between homeowners and *registered* contractors and creates a Guaranty Fund to compensate consumers up to \$10,000 for unpaid judgments against home improvement contractors. Remodeling and improving your home can be a huge undertaking. Fortunately, by understanding your rights under the law and taking a few precautions, you can help avoid potential problems.



Arbitration and Guaranty Fund applications are available at our web site: <http://www.consumer.com/consumer>.



before you begin the project.

Be sure to *plan carefully* before investing thousands of dollars into home improvements.

Think about the specific design you want (consult an architect or designer if necessary) and decide on a budget.

Think about the materials you want to use. Visit home improvement centers, read magazines featuring distinctive home designs, or talk to others who have completed similar renovations.

Clearly describe the work you want done in a specification sheet and floor plan for potential contractors. When all contractors who bid on a job work from the same design description, there is more likely to be a complete and accurate bidding process.

Contact a professional building industry association for advice on the home improvement process, including the selection of a contractor.

before you hire a contractor.

Selecting a contractor is the most important part of the home renovation process. You should always:

Interview at least three contractors and request a written, detailed estimate.

Check with the Board of Building Regulations and Standards to make sure that the contractor or subcontractor you hire is *currently* registered with the state.

If the contractor or subcontractor is not registered, you will not be protected by the Home Improvement Contractor Law. However, there may be other remedies available to you through the court system.

There are some exceptions to the registration requirement. Contractors who do not need to be registered include installers or providers of central heating and air conditioning, energy conservation devices, landscaping, interior painting, wall and floor coverings, fencing, freestanding masonry walls, above ground pools, shutters, awnings, ground level patios, driveways and certain licensed professionals such as architects, electricians and plumbers who provide services that are exclusively within the scope of their profession. Additionally, some part-time and small job (under \$500) contractors do not need to be registered.

Registered contractors must display their six-digit registration number on all advertisements, contracts and permits. Wherever you see the company or contractor's name displayed, you should also find a registration number nearby. The state issues an identification card to all registered contractors. Ask to see it in order to verify that the registration is valid and has not expired. If you discover that a

contractor is not registered, contact the Attorney General's Office to report this illegal act.

Confirm references for each contractor. Look at the jobs the contractor has completed. Contact the other homeowners who have hired the contractor and find out if they have had any problems. Check the contractor's complaint history with the Attorney General's Office or the Better Business Bureau. You can contact Consumer Affairs to find out if there have been arbitration cases or Guaranty Fund claims against the contractor.

before you sign a contract.

Always ask for a detailed written contract, even for small projects. It will protect you and help ensure that you and the contractor understand the scope of the job and the price. State law requires that home improvement contracts over \$1,000 be in writing. If contractors violate this provision, their registration may be suspended or revoked, and they can be fined or face criminal prosecution. Consumer Affairs can provide you with a sample contract.

Be sure the contract contains:

- the identification of the contractor, including the contractor's registration number;
- total price of the work;
- the payment schedule;
- a provision for changes or "extras";
- a detailed list of specifications/materials;
- start and completion dates;
- a copy of the contractor's insurance;

- ▶ a permit notice warning you that if you secure your own building permit or deal with unregistered contractors, you will not be eligible for the Guaranty Fund;
- ▶ a 3-day cancellation notice, informing you of your right to cancel your contract if you signed the agreement in your home, or at a place other than at the contractor's office or business; and
- ▶ other details particular to your job.

Be sure the contractor obtains the building permit. If you apply for the permit, you may not be eligible for compensation from the Guaranty Fund.

By law, the contractor cannot collect more than one-third of the cost of the contract in advance, unless special order materials are needed.

If you are financing your home improvements, be aware that contractors are not allowed to lend you the money, or act in association with any lending institution if the loan is secured by a mortgage on your home. Similarly, a contractor cannot offer you financing with a specific lender if your home is used as collateral. You have the right to choose any lender who is willing to negotiate your loan. Get a cost estimate from the contractor for the work that needs to be done, and then shop around for the best financing option.

when something goes wrong.

If you have a contract dispute or if you think that the job was done in a shoddy or unworkmanlike manner, explore the following options:

Mediation: This allows both parties to reach a mutually agreeable resolution with the help of a facilitator. Mediation is voluntary, requiring both parties' consent. You may apply for mediation through your local consumer group, which is affiliated with the Attorney General's Office.

Arbitration: You may be eligible for state-approved arbitration under the Home Improvement Arbitration Program. To qualify you must be able to prove that:

- ▶ there was a written contract for the job
- ▶ the contractor was registered at the time of the contract
- ▶ the work was done on a 1-4 family, owner-occupied, primary residence in Massachusetts.

If you obtained your own building permit, you may be eligible for arbitration (if other qualifications are satisfied), but you may not be eligible for payment from Guaranty Fund. If the contractor failed to include the permit notice in the contract and you meet other qualifications, you may have access to the Guaranty Fund.

You must submit an arbitration application with a non-refundable \$50 processing fee within two years of signing the home improvement contract. If accepted into the program, an additional hearing fee will be charged, based on a sliding scale linked to the size of the claim.

A professional, neutral arbitrator hears the case with both parties present and makes a legally binding decision. Either party may appeal the decision in court within 21 days.

A contractor with a dispute against a homeowner may initiate an arbitration action **only** if both parties agree to it in the contract. However, a contractor may have a counterclaim settled by an arbitrator if the homeowner has initiated the arbitration action.

For an arbitration application, or to request additional information about the arbitration program, contact the Consumer Affairs Hotline.

Court Action

You may also pursue your claim through the court system. For claims under \$2,000, small claims court is the least

costly alternative. Consumer Affairs published a *Consumer's Guide to Small Claims Court*, available upon request. Larger claims may be more suitable to District or Superior Court. You should seek legal advice for all claims.

About Your Judgment

Be aware that in some cases, you may be prevented from or delayed in obtaining a judgment of any kind if the contractor you hired has filed for bankruptcy. If a contractor has filed for bankruptcy, you can contact the Consumer Affairs hotline to find out what recourse may be available to you.

**after you win an
arbitration award
or court judgement.**

The Guaranty Fund

If you win your case in arbitration or in court and the contractor fails to pay the award or judgment, you can apply to the Home Improvement Contractor Guaranty Fund for up to \$10,000 of your actual losses. The Guaranty Fund was created as a fund of *last resort* for consumers who have an unpaid final judgment against a contractor. The Guaranty Fund is funded by a one time fee that contractors are required to pay at the time of registration.

After a consumer is paid from the Guaranty Fund, the responsible registered contractor is obligated to reimburse the Fund with interest within 30 days. Failure to repay the Fund may result in administrative fines, revocation of the contractor's registration, and in extreme cases, criminal prosecution.

To apply to the Fund, you must file a claim application within six months of the court judgment date or arbitra-

tion award. You must also demonstrate that all reasonable efforts to collect the judgment have been exhausted, as defined by state regulations (201 CMR 14.00).

For more information about the Guaranty Fund and to obtain a claim application, call the Consumer Affairs Consumer Hotline.

how to access the guaranty fund.

To qualify for payment from the Fund, a homeowner must be able to prove that:

- There was a contract for the job.
- The contractor was registered with the Board of Building Registration and Standards at the time of the contract.
- The contractor — not the homeowner — secured the building permit (with some exceptions).
- The contract was for work on a pre-existing 1-4 family residence in Massachusetts that is the **owner's primary residence**.
- A court judgment or arbitration award in the homeowner's favor has been issued, and all "reasonable efforts to collect" the judgment or award have been exhausted.
- A Fund application was filed within six months of the arbitration award or court judgment.



sources of help.

To check on a contractor's registration:

Home Improvement Contractor Registration

Board of Building Regulations and Standards

(617) 727-8598

<http://www.magnet.state.ma.us./bbrs>

To check a contractor's complaint history:

Office of Consumer Affairs and Business Regulation

(Arbitration and Guaranty Fund history only)

(617) 727-7780

Toll Free: (888) 283-3757

Attorney General's Office

(617) 727-8400

Better Business Bureau

(617) 426-9000

(508) 755-2548

(413) 734-3114

To file a formal complaint:

The Office of the Attorney General

(617) 727-8400

To obtain applications for arbitration or the Guaranty Fund, a sample contract or more information about the Home Improvement Law:

Office of Consumer Affairs

and Business Regulation

(617) 727-7780 or

Toll Free: (888) 283-3757

For information about the home improvement process, contact professional building industry associations:

National Association of the Remodeling Industry

NARI Western Mass Division (508) 655-6336

NARI Western Mass Division (413) 781-6274

NARI web site: <http://nari.org>

Builders Association of Greater Boston (617) 773-1300

Home Builders Association of Massachusetts (800) 632-8168

Other resources.

Consumer Guides

Banks Selling Insurance
Home Improvement
Landlords' Rights and Responsibilities
Lemon Aid Law
Managing Credit and Debt
New & Leased Car Lemon Law
Shopping Rights
Small Claims Court
Tenants' Rights and Responsibilities
30-day Demand Letter
Used Vehicle Warranty Law

Consumer Fact Sheets

Auto Repair Rights
Credit Card Secrets
Making Health Clubs Work Out for You
Stopping Junk Mail, Calls, and E-mail
Surviving Financial Identity Theft

Consumer Hotline

(617) 727-7780
Toll Free (888) 283-3757

Online Resource Center

<http://www.consumer.com/consumer>

e-mail

ask@consumer.com

This publication provides general information about Massachusetts consumer issues and procedures. It is not designed to address all questions in detail and consumers are encouraged to seek further guidance by contacting the agency directly.

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